

NOVA PLAN

2002 - 2008

A Plan to guide expenditures under the
Nonhighway and Off-Road Vehicle Activities
(NOVA) Program

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Foreword

The 2002 *NOVA Plan* sets policies to guide expenditures under Washington State's Nonhighway and Off-Road Vehicle Activities (NOVA) Program, established by Chapter 46.09 RCW. The NOVA Program provides funding to various local, state, and federal agencies. Funds are used to acquire land, plan, build and maintain facilities, and manage off-road vehicle (ORV) and nonhighway road (NHR) recreation opportunities.^[1]

This updated *NOVA Plan* is based on the 1993 *NOVA Plan*, both in structure and content. These similarities occur primarily because, after completing the research for the *Plan*, the authors determined the 1993 *NOVA Plan* was fundamentally sound.

NOVA funds originate mostly from a refund of a portion of the state fuel tax paid by ORV and NHR recreationists.

Definitions. This Plan uses the following definitions (RCW 46.09.020, page 42 contains more definitions).

Nonhighway Road (NHR) recreationist: One who uses a motor vehicle on an NHR to access a *nonmotorized* trail activity. Those who pursue such leisure activities are typically predominately mountain bicyclists, equestrians, hikers, and cross-country skiers.

Off-Road Vehicle (ORV) recreationist: One who pursues a backcountry trail and/or competition track activity. Those who pursue such leisure activities are typically predominately all-terrain vehicle (ATV) riders, four-wheel drive vehicle users, and trail motorcyclists.

NHR recreational facility: The structures supporting primarily nonmotorized recreational activities (principally mountain bicycling, hiking, cross-country skiers and horse riding) accessed via an NHR, including campgrounds, trailheads, trails, etc. See also pages 30, 42.

ORV recreational facility: The structures that support motorized recreational trail activities (predominately all-terrain vehicle, four-wheel drive vehicle, and/or trail motorcycle riding): campgrounds, trailheads, trails, competition sport parks, etc. See also page 42.

^[1] At the time of *Plan* adoption, IAC was nearing completion of a study (Policy A-3, page 7; page 19) with the potential to alter the current direction of the NOVA Program. Due for presentation to the 2003 Legislature, the study must include "recommendations on the distribution and use of funds provided to ORV and NHR recreational activities."

This Plan primarily focuses on the provision of opportunities for:

- ORV recreationists – assisting activities related to motorized backcountry trail and competition track activities.
- NHR recreationists – assisting activities related to nonmotorized backcountry trail use accessed via an NHR.

NOVA Funding, Policies. Approximately half of NOVA funding is directly appropriated to Washington's Department of Natural Resources, Department of Fish and Wildlife, and State Parks and Recreation Commission. The remainder, 54.5 percent, is appropriated to the Interagency Committee for Outdoor Recreation (IAC), which distributes its funding to public agencies through a competitive grants program.

This *Plan* explores various issues related to IAC's NOVA Program, including 38 policies that address overall program direction, administration, and project evaluation. These policies are intended to guide program funding in a manner that satisfies user needs, is environmentally responsible, and minimizes conflict between user groups.

In a separate process, IAC will implement a number of these policies through modifications to its policy and project selection manuals—the day-to-day guidelines used to govern the NOVA Program and select projects for funding.

Many of the policies are intended to provide greater balance and structure to the NOVA Program. Other policies help ensure that funds will provide increased benefits to the recreating public. Increased emphasis on stewardship will help maintain existing opportunities and increase user enjoyment.

When the policies are implemented, we anticipate that new facilities will be designed to minimize maintenance and will be located more conveniently to users. More emphasis will be placed on maintaining existing infrastructure. Management projects will focus on the season and place of user activity. Volunteer and other non-government contributions will leverage program funds. Use of motorized or non-motorized "primary management objectives" on trails will help clarify user expectations and preserve inventory.

The 2002 *NOVA Plan* was developed in cooperation with the IAC, various public agency representatives, organized recreation user groups, and nearly 2,000 recreationists who contributed valuable insight to the research process.

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Introduction

NOVA Program

Since 1971, Washington State has administered programs designed to benefit recreational off-road vehicle (ORV) users. In 1986, the programs were broadened to also serve recreationists who use nonhighway roads (NHR)—those roads not supported by state motor vehicle fuel taxes. Although many aspects of the programs have changed over the last 30 years, the intent has remained the same: to provide quality recreation opportunities to those who consume motor fuel in pursuit of recreational activities involving ORVs and NHRs. Specifically, this includes users of all-terrain and four-wheel drive vehicles, off-road motorcyclists as well as those who drive back roads for pleasure, hikers/backpackers, equestrians, cross-country skiers, and mountain bicyclists.

Originally known as the All-Terrain Vehicle Program and later the ORV Program, it is now called the **Nonhighway Road and Off-Road Vehicle Activities (NOVA) Program**. The term NOVA is used here to refer to the program established by Chapter 46.09 RCW, Off-Road and Nonhighway Vehicles (Appendix 2, page 42). This law, as amended over the years, directs funding to the state departments of Natural Resources, Fish and Wildlife, the State Parks and Recreation Commission, and the Interagency Committee for Outdoor Recreation (IAC). IAC makes its NOVA funds available to public agencies through a competitive grants program.

The law establishes specific purposes for NOVA funds. For example, funds appropriated directly to the Department of Natural Resources are used for planning, maintenance, and management of ORV recreation facilities, NHRs, and NHR recreation facilities. IAC also administers NOVA funds by categories, including planning, acquisition, development, maintenance, and management. The statute further dictates minimum and maximum expenditures for many categories.

2002 Plan

Chapter 46.09 RCW mandates that IAC maintain and update, every six years, a plan to be used by all participating agencies to guide distribution and expenditure of NOVA funds. In 1981 and 1987 IAC produced plans that dealt exclusively with ORV issues and needs. Shortly before completion of the 1987 Plan, the legislature changed the law to include a greater emphasis on NHR recreation activities. The 1993 and 2002 NOVA Plans are the first to address both NHR and ORV uses of NOVA funding.

Through its Statewide Comprehensive Outdoor Recreation Planning (SCORP) Program, IAC maintains several plans to help guide the maintenance and enhancement of the state's recreation system. A cornerstone is *An Assessment of Outdoor Recreation in Washington State: A Comprehensive Outdoor Recreation Planning (SCORP) Document, 2002-2005*. This assessment takes a broad look at the outdoor recreation issues and needs facing the state. Another important plan is the *Washington State Trails Plan*, which focuses on a subset of the recreation system. It addresses many trail resources and uses.

The *NOVA Plan* is even more focused. It examines issues and needs, mostly trail related, specific to Chapter 46.09 RCW. Its audience is IAC, the NOVA Advisory Committee, agencies that receive NOVA funds, and recreationists and others interested in the NOVA Program.

The **vision** for the *NOVA Plan* is to:

Maintain a framework that allows various user groups and agencies to provide quality opportunities for ORV and nonmotorized recreationists—opportunities that satisfy user needs, are environmentally responsible, and minimize conflict among user groups.

Specifically, the **goals** of the *NOVA Plan* are to:

- Assess issues related to the NOVA Program;
- Provide policy guidance on the use of NOVA funds; and
- Make recommendations about future program direction.

Planning Process

Preparing the Draft Plan. Because state law directs the use of NOVA funds, the planning process was designed to provide information directly related to those uses. Consensus among planning process participants was the preferred means of deciding needs and recommendations. While this consensus may not have addressed the allocation of resources among user groups, it is intended to reflect various project sponsor and user group priorities.

IAC invited extensive public participation in the planning process. Members from the NOVA Advisory Committee, Ad Hoc NOVA Plan Advisory Committee, affected agencies, interested user groups, and the general public all had several opportunities to contribute to the *Plan*. To assist in the planning process and stimulate dialogue, IAC staff distributed a discussion paper that explored the history and issues associated with the NOVA Program.

From February 12, 2001 through May 18, 2001 a total of 96 interviews were conducted among recreationists and NOVA Program administrators in the State of Washington. An additional 1,729 recreationists participated in an Internet survey, from April 26, 2001 to May 16, 2001.

The in-depth individual interviews, focus groups, and Internet survey were designed and conducted to explore the insights, perceptions and opinions of respondents. The research process, using multiple methodologies, included:

- 18 In-depth interviews of NOVA Ad-Hoc Committee members and others;
- 6 In-person focus groups;
- 2 Statewide telephone focus groups; and
- Internet survey.

As a part of the above outreach, members of the Ad Hoc NOVA Plan Advisory Committee and others participated in a series of interviews, each lasting between 30 and 90 minutes. These in-depth discussions were conducted to identify issues, areas of opportunity and concern, and to establish a framework for the focus group sessions and Internet survey.

A series of eight focus groups were held in various locations throughout the State. Two sessions were held with sponsored program agency representatives and with recreationists (two with motorized users, two with non-motorized users and two with both—"mixed"). In order to ensure that people in outlying areas could be represented in these discussions, two of the focus groups were conducted via statewide telephone conference call with the moderator leading the discussion the same as the in-person groups. Each discussion lasted approximately two hours. The number of participants

ranged from 7 to 14, with most groups consisting of 8 to 9 respondents for a total of 80 focus group participants.

The individuals in the recreation user groups were recruited from lists provided by their state organization, club or association. Lists of program administrators and enforcement and educator personnel were obtained from the IAC. Each recreationist participant was prescreened by telephone to assure that the focus groups were made up of people representing a wide range of experience and knowledge.

Researchers sought additional statewide participation for the NOVA planning process via an Internet survey. Important issues and concerns that arose during the in-depth interviews and focus groups provided additional input for the Internet survey. This survey was posted on a site hosted by The Gilmore Research Group from April 20 through May 13, 2001. The link to this site was sent out to user organizations and individuals across the state, each being urged to pass along the link and invitation for interested people to provide their opinions and suggestions through this electronic medium. A total of 1,729 people took part in the survey.

Draft Plan Review. Based on the above research, a preliminary draft plan was prepared and circulated to IAC staff and the ad hoc NOVA Plan Advisory Committee in June 2001. By July, the complete draft was distributed to all parties on record as indicating an interest in the Plan. Later that month, a copy of the draft was made available for review and download on IAC's web page. Included was an email feedback form that respondents used to provide Plan comments directly to IAC. Dozens of individuals took advantage of this opportunity.

To review the Plan's draft policies and receive further feedback, in August IAC staff conducted a series of Plan forums across the state: Ellensburg, Olympia, Seattle, and Spokane. In addition, staff offered to conduct more of these forums for any interested group. In response, one additional forum was provided in Seattle.

In the months leading to Plan adoption, IAC staff continued to receive comments and suggestions on the draft, many of which led to revisions. One comment, concerning the use of NOVA funds to support facilities closed to motorized uses, led to a several-month delay while IAC conferred with legal counsel and the legislature acted to resolve the issue (page 41).

Plan Organization and Interpretation

The remainder of the *Plan* has two major sections. The **first section** features specific policies intended to help guide expenditures under the NOVA Program. For the reader's convenience, all policy statements have been placed in this section.

The **second section** contains a synthesis of the discussions upon which the policy statements are based. The synthesis is built on the foundation provided by the original discussion papers, augmented by the results of the planning process.

The policy and discussion sections present, in the same order, material related to four topical areas:

- A. NOVA Program
- B. ORV Law Enforcement and Information/Education
- C. ORV Facility Planning, Acquisition, Development, Maintenance
- D. NHR Facility Planning, Acquisition, Development, Maintenance.

For example, the policy and discussion sections both begin with themes related to the entire NOVA Program. This is followed by examinations of specific dimensions of the program, such as ORV law enforcement and information/education.

Appendix 1 contains a program history, beginning with the first grants in 1971. Appendix 2 contains a copy of the NOVA Act, chapter 46.09 RCW. This chapter contains sections on:

- Definitions (46.09.020)
- ORV use permits (46.09.030-46.09.080)
- Disposition of use permit funds (46.09.110, 46.09.280)
- Operating violations, accident reports, penalties and enforcement (46.09.120, 46.09.130, 46.09.140, 46.09.190, 46.09.200)
- Motor vehicle fuel taxes not refundable (46.09.150)
- Distribution of NOVA funds (46.09.170)
- Administration (46.09.240)
- State Plan (46.09.250)
- Advisory Committee (46.09.280).

IAC will implement the *Plan's* policies through the process it uses to select projects for NOVA funding. For example, the evaluation questions used by the NOVA Advisory Committee to help compare and rank proposed projects will be changed to reflect the *Plan's* policies.

Policies modified with the term "*encourage*" indicate that a project dimension will be measured and, to the degree that it reflects policy intent, will be rewarded by evaluation points. Policies modified with the term "*require*" will be interpreted to mean that an element is a threshold requirement for funding consideration *and* may be scored.

NOVA Program Policies

A. NOVA Program

Policy A-1 *The NOVA Program shall allow various user groups and agencies to provide quality opportunities for ORV and NHR recreationists—opportunities that satisfy user needs, are environmentally responsible, and minimize conflict among user groups. Sponsors will demonstrate accountability and help attain this goal, in part, by reporting on project related activities.* (Further discussion is on pages 2, 19, 26.)

NOVA funding shall augment, not replace, other sources of funding.

The NOVA Program allows user groups and public agencies to work cooperatively to provide ORV and NHR recreation opportunities. Because of the program's revenue source and the effects of its funding, the program brings together many interests which are sometimes in conflict. NOVA funds shall be used to provide quality recreation opportunities in a manner that strives to minimize conflict and environmental damage.

NOVA funding is intended to enhance the capabilities of recreation providers and managers. Similar to other IAC funding programs, NOVA funding shall achieve results that would not be possible without state funding. It shall not replace other funding. When NOVA funding is available for maintenance and operation, for example, it shall not be used to replace or divert monies that would otherwise be available for that purpose.

Policy A-2 *The NOVA Advisory Committee shall include representatives from user groups and agencies affected by NOVA funding.*

(Further discussion is on page 17.)

The Advisory Committee shall include the following representatives:

- ORV NOVA Community (3)
- Nonmotorized NOVA Community (3)
- Government (3).

In selecting members IAC will strive to ensure:

- That together they represent federal, state, and local government and the primary NOVA activities (all-terrain vehicle riding, horse/stock users, four-wheel driving, mountain bicycling, hiking, motorcycling).
- They demonstrate the support of those represented.
- Together they comprise a broad range of human diversity (gender, geography, ethnicity, physical ability, age).
- They have the time and resources to participate.
- They have basic experience in and an understanding of NOVA issues.

- They are committed to helping implement the policies reflected in this plan and project evaluation system.

Likewise, after selection, committee members will:

- Represent those groups/agencies for whom they have been selected.
- Demonstrate the support of those represented.
- Commit the time and resources needed for participation.
- Remain committed to the policies in this plan and project evaluation system by providing recommendations that reflect program policies and ensure the integrity of the project evaluation process.

In the near future, IAC will reconsider NOVA Advisory Committee policies, including representation, term limits, rules of conduct, etc. This will occur after taking into account information from the fuel use study called for in SSB 6155, Section 346 (3), Laws of 2001, and other relevant factors. This will be completed no later than the second IAC board meeting after presentation of the recommendations called for as a part of the fuel use study.

In accordance with RCW 46.09.280, only representatives of organized ORV groups may be voting members of the advisory committee with respect to expenditure of ORV permit funds received under RCW 46.09.110.

Policy A-3 ***NOVA Program review and administration shall be based on valid, up-to-date information.***

(Further discussion is on pages iii, 19.)

IAC will complete a new fuel-use study by December 2002, as described in SSB 6155, Sec. 346(3), Laws of 2001. In summary, IAC will:

“...study the source and make recommendations on the distribution and use of funds provided to ORV and NHR recreational activities under RCW 46.09.170. The study shall determine the relative portion of the motor vehicle fuel tax revenues that are attributable to vehicles operating off-road or on NHRs for recreational purposes... [and] shall include the types of vehicles and location of their use, the types of recreational activities, the types of recreational facilities used, and the recreational use of forest roads.”

Policy A-4 ***IAC shall endeavor to provide user groups with current NOVA-related information through a variety of communication methods.***

(Further discussion is on page 17.)

Efficient and effective communication is critical for increasing awareness, building trust, and ensuring that accurate information is available. To address this, IAC shall implement a plan which may include:

- Email to user groups;
- Press releases to news outlets, including organizational newsletters;
- An updated IAC web page which may contain relevant program history, links to statutes, calendar/schedule, planning and grant application

documents, an overview of current applicants and funded projects, staff and advisory committee membership information.

- Informational materials distributed at retail outlets or attached to Department of Licensing notifications.

B. ORV Education/Information and Law Enforcement (E&E)

Policy B-1 ***E&E programs shall help preserve ORV opportunities. E&E funding shall encourage responsible recreational behaviors through positive management techniques.***

Because law enforcement can reduce inappropriate ORV user behavior it helps protect the availability of sanctioned ORV opportunities. NOVA funding shall not, however, be used to replace local law enforcement funding. It shall instead augment local capabilities and result in improved ORV recreation management. In general, projects that focus solely on enforcement of ORV closures, within areas with few or no legal ORV opportunities, shall be discouraged.

Policy B-2 ***Encourage projects that primarily employ in-field contact with users during high use seasons.***

To encourage program efficiency, focus E&E on the place and time of ORV activity. Encourage, for example, programs that target users during the summer on lands where ORV recreationists prefer to ride (for example, Dept. of Natural Resources and Forest Service managed lands legally open to ORV use). To the extent possible, the distribution of law enforcement funding shall closely reflect the statewide distribution of ORV activity. Monitor and guide funding to ensure compliance with RCW 46.09.170, which directs a certain amount of E&E funding to enforcement agencies in counties where DNR provides motorized recreation opportunity.

Continue to concentrate scarce funding on expenditures most directly related to E&E activities. This includes E&E personnel salaries and benefits, and related materials and equipment which will continue to be reimbursable and eligible as matching credit. Costs not reimbursable or eligible for matching credit include administrative and clerical support, dispatch services, supervision, and costs associated with preparation of NOVA grant applications.

Policy B-3 ***Encourage E&E activities that target current ORV users.***

(Further discussion is on page 21.)

Concentrate scarce E&E resources on existing ORV users. This maximizes the benefit to users, while discouraging activities that have fewer benefits, such as “mall shows” and many in-school (K-12, etc.) programs.

Policy B-4 *Require E&E project applicants to provide project goal and objective information as part of the application process. Encourage applicants to provide demand and need information as a part of the evaluation process.*

(Further discussion is on page 21.)

Program administrators and education and enforcement personnel indicate little need to change their programs from year-to-year and thus support concentration of efforts on additional fieldwork, rather than planning. Respondents indicated once they had completed the previously required work plans, those plans were rarely consulted. It is important, however, that key planning elements, (program goals & objectives, description of demand & need) be retained in a different format, including as part of the application process. Additionally, the requirement for regular progress reports on activities and expenditures from these project sponsors will be continued.

Policy B-5 *Establish A Full Time Employee Equivalent (FTE) position limit of \$54,000 while maintaining a \$30,000 limit on capital purchases.*

(Further discussion is on page 20.)

Before adoption of this Plan, the FTE support limit for E&E projects, established in 1982, was \$45,000. In 2000 dollars, this would be equivalent to \$80,300. However, increasing the FTE limit for such inflation would unnecessarily stress this program, in all probability leading to support for fewer projects. The majority of E&E project sponsors support these positions by adding matching value (labor, materials, etc.), in many cases in excess of 40% of the project's total value.

Many E&E project sponsors are concerned about a growing opposition within local government for continued sponsorship of NOVA projects. The E&E sponsors indicated increased financial obligations by sheriff departments and an unfavorable cost-benefit perception by organization administration that may eventually lead to the elimination of individual projects.

Policy B-6 *Fund E&E projects for up to two consecutive years.*

Allowing E&E funding to be used for two years increases budget certainty for sponsors and may result in higher quality programs. At the same time, it reduces the work associated with annual project evaluation for sponsors, the NOVA Advisory Committee, and IAC.

C. ORV Facility Planning, Acquisition, Development, and Maintenance

Policy C-1 *Encourage a motorized primary management objective designation (motorcycle, ATV, 4x4, etc.) on trails receiving ORV funding.*

Designating trails with a motorized primary management objective not only helps clarify the experience users can expect, but also provides managers with clear and consistent facility standards. Use of primary management objectives is supported by the *Washington State Trails Plan* (IAC, 1991).

Policy C-2 *Encourage projects convenient to population centers.*

Increasingly, ORV opportunities are provided in relatively remote settings. There are strong indications, however, that previously available riding areas near where most people live, or which were tolerated but unmanaged or unsanctioned, are being closed to motorized recreation. While it is often difficult or impossible to place ORV opportunities in urbanized areas, priority shall be given to projects convenient to urban areas. This policy is also supported by the *State Trails Plan* (1991) and *Washington Outdoors: Assessment and Policy Plan* (1990), and is consistent with RCW 79A.25.250.

Policy C-3 *Encourage non-government contributions.* (Further discussion is on page 24.)

Contributions of money, materials, or services by volunteers, the private sector, nonprofit organizations, and others extend scarce funding and help demonstrate which projects have broad public support.

Policy C-4 *Encourage an increased level of volunteer participation in projects.*

Widespread support exists for projects that supply the “biggest bang for the buck,” or a more favorable cost-benefit. By increasing the level of volunteer participation in maintenance and operations projects, with land managing agencies and user groups, a reduction in the overall trail maintenance expenditure will occur. (Further discussion is on page 26.)

Policy C-5 *Encourage projects that have design considerations that minimize the need for ongoing maintenance.* (Further discussion is on page 25.)

Projects can often incorporate design elements that reduce maintenance needs. Decisions about placement and tread surfaces, for example, often affect maintenance needs. Adequate consideration of maintenance during the design phase can result in long-term savings that far outweigh most short-term construction cost increases.

Policy C-6 *When reconstructing ORV trails, encourage projects that correct environmental problems, retain trail difficulty and user experiences, and minimize user displacement.*

Reconstruction can be less expensive than new construction and often presents opportunities to employ current standards and correct environmental problems. Project sponsors shall be sensitive to current trail uses and experiences, and seek to minimize "over building" the trail and significantly changing the opportunity for either motorized or nonmotorized users.

Policy C-7 *Require general plans and completion of applicant-required processes before the IAC board funding meeting.*

Project sponsors shall provide evidence of planning that supports the proposed project. Unlike project-specific engineering plans, these general plans shall clearly define goals, objectives and needs, and be developed by a process that includes opportunities for public participation. Examples include local agency comprehensive park plans, growth management plans, national forest plans, national park management plans, etc.

Policy C-8 *Require completion of applicant required environmental processes before the IAC board funding meeting.* *(Further discussion is on page 20.)*

Consistent with local, state and federal laws and regulations, applicants must provide evidence of compliance with environmental planning and review requirements. This means demonstrating compliance with the State and Federal Environmental Policy Acts, SEPA and NEPA. In most cases, this means providing to IAC by the technical completion deadline, such documentation as: a Determination of Non-Significance (SEPA); Record of Decision, Decision Notice, or Decision Memo (NEPA).

Applicants must also comply with any permitting requirements, including shoreline, hydraulics, building, health, etc. IAC does not require proof of compliance with these permit obligations.

Policy C-9 *Require a lease period of at least 25 years for projects acquiring leases.*

This policy primarily concerns the state Dept. of Natural Resources. Prior to adoption of the above policy, IAC required that, at minimum and short of a fee simple purchase, any land acquisition project needed to guarantee a lease lifespan of 50 years. Since, however, it is nearly impossible to obtain a 50-year lease today because facility life expectancy is usually only 20-25 years, this requirement is reduced to 25 years.

Policy C-10 *Evaluate ORV acquisition, development, M&O, and planning projects on a head-to-head basis. IAC's target is to distribute:*

- **40% to M&O projects;**
- **40% to acquisition, development, and/or planning projects; and**
- **20% based on the remaining highest ranked projects.**

Plan research indicates a need to allocate more funding to M&O projects while retaining an emphasis on providing new opportunities via acquisition and development projects. Previously, M&O projects were funded only in odd years, capital projects were funded every year and each was evaluated separately. By using a single evaluation instrument annually, the higher priority projects will receive a greater share of funding.

Planning is also an important element in providing quality recreation while protecting the environment. Support for ORV planning is especially important as it helps land managers determine where this type of recreation is acceptable. The NOVA Advisory Committee and IAC shall continue to assess the value of proposed planning projects relative to capital uses of ORV funding. Large planning projects shall be phased over two or more years to allow for interim assessment of the likelihood of maintaining or enhancing ORV opportunities.

Policy C-11 *Fund ORV M&O projects for up to two consecutive years.*

Allowing M&O funding to be used for two years increases budget certainty for sponsors and may result in higher quality programs. At the same time, it reduces the work associated with an annual project submission for sponsors, the NOVA Advisory Committee, and IAC.

Policy C-12 *The grant ceiling for individual ORV M&O projects is \$200,000 per each two year period. Only the three sport parks previously assisted by IAC (Thurston Co., City of Richland, Spokane Co.) will be considered for funding.* (Further discussion is

Plan research strongly suggests broad support for increasing the availability and quantity of NOVA funding to M&O projects. One of the most intensely discussed issues during Plan preparation was trail maintenance. Program administrators suggest that, historically, too much funding has been directed to capital projects without necessary maintenance support. Overall, ORV recreationists indicated trail maintenance was their second most important issue. With the exception of sport parks, IAC has rarely seen an M&O project that approaches the \$200,000 limit.

Policy C-13 *Require M&O applicants to provide project goal and objective information as part of the application process. Encourage applicants to provide demand and need information as a part of the evaluation process.*

Program administrators indicate little need to change their programs from year-to-year and thus support concentration of efforts on additional field-work, rather than plan creation. It is important, however, that some key planning elements, (program goals & objectives, description of demand & need) be retained in a different format, for example, as part of the application and evaluation process.

Policy C-14 *Find appropriate ORV sites through the initiative of land managers.*

IAC will not assume a proactive role in site identification. Consistent with its other programs, IAC will continue to rely on public land managers to identify appropriate ORV sites through their respective land use planning and public involvement processes. ORV user groups are encouraged to continue to work with land managers to identify sites. IAC staff will continue to publicize the availability of NOVA funding opportunities through its grant workshops, web page, and publications.

D. NHR Facility Planning, Acquisition, Development, and Maintenance

Policy D-1 *Encourage a nonmotorized primary management objective designation (equestrian, hiking, mountain bicycling, etc.) on trails receiving NHR funding.*

Designating trails with a nonmotorized primary management objective not only helps clarify the experience users can expect, but also provides clear and consistent direction to managers. Use of primary management objectives is supported by the *Washington State Trails Plan* (IAC, 1991).

Policy D-2 *Encourage projects convenient to population centers.*

Because of the nonhighway road threshold criteria (access via a non-gasoline tax supported road, etc.) and emphasis on natural settings, most NHR recreation opportunities are provided in relatively remote settings. While it is often difficult or impossible to locate NHR opportunities in urbanized areas, priority shall be given to projects convenient to such areas. This policy is supported by the *State Trails Plan* and *Washington Outdoors: Assessment and Policy Plan*, and is consistent with RCW 79A.25.250.

Policy D-3 *Encourage non-government contributions.* *(Further discussion is on page 25.)*

Contributions of money, materials, or services by volunteers, the private sector, nonprofit organizations, and others extend scarce funding and help demonstrate which projects have broad public support.

Policy D-4 *Encourage an increased level of volunteer participation in projects.* *(Further discussion is on page 26.)*

Widespread support exists for projects that supply the “biggest bang for the buck,” or a more favorable cost-benefit. By increasing the level of volunteer participation in maintenance and operations projects, with land managing agencies and user groups, a reduction in the overall maintenance expenditure will occur.

Policy D-5 *Encourage projects that have design considerations that minimize the need for ongoing maintenance.*

Projects can often incorporate design elements that reduce maintenance needs. Decisions about placement and materials, for example tread surfaces, often affect maintenance needs. Adequate consideration of maintenance during the design phase can result in long-term savings that far outweigh most short-term construction cost increases.

Policy D-6 *Require general plans and completion of applicant-required processes before the IAC board funding meeting.*

Project sponsors shall provide evidence of planning that supports the proposed project. Unlike project-specific engineering plans, these general plans shall clearly define goals, objectives and needs, and be developed by a process that includes opportunities for public participation. May include local agency comprehensive park plans, growth management plans, national forest plans, national park management plans, etc.

Policy D-7 *Require completion of applicant required environmental processes before the IAC board funding meeting.*

(Further discussion is on page 20.)

Consistent with local, state and federal laws and regulations, applicants must provide evidence of compliance with environmental planning and review requirements. This means demonstrating compliance with the State and Federal Environmental Policy Acts: SEPA and NEPA. In most cases, this means providing to IAC by the technical completion deadline, such documentation as a Determination of Non-Significance (SEPA); Record of Decision, Decision Notice, or Decision Memo (SEPA).

Applicants must also comply with any permitting requirements, including shoreline, hydraulics, building, health, etc. IAC does not require proof of compliance with these permit obligations.

Policy D-8 *Require a lease period of at least 25 years for projects acquiring leases.*

This policy primarily concerns the state Dept. of Natural Resources. Prior to adoption of the above policy, IAC required that, at minimum and short of a fee simple purchase, any land acquisition project needed to guarantee a lease lifespan of 50 years. Since, however, it is nearly impossible to obtain a 50-year lease today because facility life expectancy is usually only 20-25 years, this requirement is reduced to 25 years.

Policy D-9 *Evaluate NHR acquisition, development, M&O, and planning projects on a head-to-head basis. IAC's target is to distribute:*

- 40% to M&O projects;
- 40% to acquisition, development, and/or planning projects; and

- **20% based on the remaining highest ranked projects.**

Plan research indicates a need to begin allocating funding to NHR M&O projects while retaining an emphasis on providing new opportunities via acquisition and development projects. Under the previous NOVA Plan, NHR projects were not eligible for M&O funds. By making such projects eligible *and* evaluating them head-to-head with capital and planning projects, several advantages are achieved. For example, among the more obvious, M&O funding allows improved maintenance, while head-to-head evaluation allows the higher priority projects (whether M&O or developments) to receive a greater share of the funding.

Planning is also an important element in providing quality recreation while protecting the environment. Support for NHR planning is especially important as it helps land managers determine where this type of recreation is acceptable. The NOVA Advisory Committee and IAC shall continue to assess the value of proposed planning projects relative to capital uses of NHR funding. Large planning projects shall be phased over two or more years to allow for interim assessment of the likelihood of maintaining or enhancing NHR opportunities.

Policy D-10 *Fund NHR M&O projects for up to two consecutive years.*

Allowing M&O funding to be used for two years increases budget certainty for sponsors and may result in higher quality programs. At the same time, it reduces the work associated with an annual project submission for sponsors, the NOVA Advisory Committee, and IAC.

Policy D-11 *The grant ceiling for individual M&O projects is \$100,000 for each two year period. The grant ceiling for individual land acquisitions, developments, and plans is \$100,000 per project.*

The above limits are imposed due to the relatively limited funding available for NHR projects, typically about \$600,000 per year. Plan research strongly suggests broad support for increasing the availability and quantity of NOVA funding to NHR M&O projects. One of the most intensely discussed issues during plan preparation was trail maintenance. Program administrators suggested that historically, too much funding has been directed to capital projects without the necessary maintenance infrastructure and funding to support the efforts. Overall, Plan research also shows recreationists find maintenance of trails as their most important issue.

Policy D-12 *Require NHR M&O applicants to provide project goal and objective information as part of the application process. Encourage applicants to provide demand and need information as a part of the evaluation process.*

Program administrators indicate little need to change their M&O programs from year-to-year and thus support concentration of efforts on additional

field-work, rather than plan creation. It is important, however, that some key M&O elements, (program goals & objectives, description of demand & need) be retained in a different format, for example, as part of the application and evaluation process.

Policy D-13 *Encourage emphasis on projects that provide setting attributes that are predominantly natural, as are typically (but not necessarily) found in a “backcountry” environment.*

To be eligible for nonhighway road funding, projects must be accessible via an NHR. Consideration of a "backcountry experience" in project selection is based on the notion that additional emphasis should be placed on allocating funds back to the type of setting where funds were generated. A portion of the NOVA fund is generated by motorists traveling on NHRs, such as those which occur in national parks or forests. As such, travelers who pay the fuel tax will benefit from projects on or next to NHRs. Emphasis on providing setting attributes that are predominantly natural is supported by *Washington Outdoors: Assessment and Policy Plan* (IAC).

Policy D14 *Find appropriate NHR sites through the initiative of land managers.*

IAC will not assume a proactive role in site identification. Consistent with its other programs, IAC will continue to rely on public land managers to identify appropriate NHR sites through their respective land use planning and public involvement processes. NHR user groups are encouraged to continue to work with land managers to identify sites. IAC staff will continue to publicize the availability of NOVA funding opportunities through its grant workshops, web page, and publications.

Discussion

A. General NOVA Program

IAC and NOVA Program

As discussed in Plan policy A-4 (page 7), efficient and effective communication is critical for increasing awareness, building trust, and ensuring that accurate NOVA-related program information is provided to user groups.

Research for this Plan found that numerous recreationists know little about the NOVA Program and IAC. Some have sought to learn more but had no idea where to turn. Respondents who had some understanding of the program were often misinformed about some of its aspects. For example, when asked how NOVA funding distributions were decided, they were unaware that the principal recreation activities have representatives directly involved in funding decisions.

Future need: The most recent comprehensive state trail inventory is based on 1988-89 data. Research for this Plan suggests that many people feel public lands are being closed off to their recreational pursuits. An investigation to determine the extent of public land closures could benefit the distribution of NOVA funding by allowing IAC to determine high need areas while providing a clearer understanding of the facts.

NOVA Advisory Committee

Background research for this Plan indicates that recreationists would like to know more about the operation and duties of the NOVA Advisory Committee. An often cited area of concern is the role of members regarding their volunteer positions (i.e. scoring projects; meeting attendance; and communicating with their constituencies). In many cases, the perception is that Committee members, key user organizations, and association leadership use those positions to address either personal or narrow political agendas.

In Plan focus groups and interviews, program administrators questioned the consistency and potential for bias on project scoring by Advisory Committee members. Investigation of the most recent "Evaluator Report by Project", indeed, shows what may be an inconsistency by two user representative judges. This occurred for both ORV and NHR projects. In one example, five judges out of six rated a project highly (4 or 5 out of 5 points) for all criteria, while one judge rated it either no value or very low (0 or 1) value for the same criteria. Such scoring can reinforce the perception of inappropriate scoring and perhaps a lack of process knowledge.

Due to the NOVA Advisory Committee structure, user group representatives volunteer their time to assist in the process. Although volunteers donate this time and experience to the program, there is the expectation all volunteers will follow through on their obligation. On the other hand, there is also an expectation from volunteers that IAC will provide the necessary leadership and carefully consider their feedback and recommendations to ensure their time is well spent.

It is critical to have NOVA Advisory Committee volunteers well informed and involved in their respective roles. Even so, comments by IAC staff, NOVA Advisory Committee members, and Ad Hoc *NOVA Plan* Advisory Committee members describe reasons for serious concern, including poor meeting attendance and questionable project scoring. As a means to address these concerns, and realizing volunteers can only serve to the level they are supported and educated, IAC will implement Policy A-2 (page 7) regarding a review of NOVA Advisory Committee representation, job descriptions, term limits, etc.

A diversity of opinion exists regarding who should be represented on the Advisory Committee. For example, some user group representatives suggest removing agency representatives as voting members, while others see agency representation as vital. A review of results from project evaluations, Plan interviews and focus group sessions could not identify any inappropriate actions by agency representatives that would warrant changing their role on the advisory committee.

Furthermore, agency representation seems critical to the NOVA funding process. Such resource managers provide a unique and big-picture perspective of current land management planning decisions as well as knowledge of their agencies' long-term vision.

Another representation issue concerns user groups. In particular, Plan research revealed a substantial concern expressed by some members of the hiking constituency that hikers are the "lone voice" on the Advisory Committee in opposition of motorized, and in many cases, non-motorized (equestrian and mountain bicyclists) recreation. These hikers insist they must have an increased representation, in part, because their numbers may far exceed those of other trail users on the committee. On the other side, certain motorized interests have noted that fund allocations are not based on the number of users, rather, they are based on the amount of gasoline tax paid for NOVA use.

RCW 46.09.280 directs IAC to establish a Committee to advise on administration of this NOVA Program chapter. This RCW (amended 1986) states "*The interagency committee for outdoor recreation shall establish a committee of nonhighway road recreationists, including representatives of organized ORV groups, to provide advice regarding the administration of this chapter*". Based on Plan research, it is important that IAC conduct an

outreach process among interested parties to determine a well-balanced Committee structure.

State Fuel Use Study and Apportionment

Many of the views expressed during Plan research on conducting a new study of fuel-use, and the related apportionment of funding, have not altered substantially since completion of the 1993 *NOVA Plan*. The need for a new fuel-use study and reconsideration of how funds are divided among the NOVA categories, particularly NHRs and ORVs, was consistently mentioned by many of the respondents as an issue that should be addressed.

Since the origin of this program and completion of the initial fuel-use study in 1974, it appears that political and fiscal constraints have allowed only a small proportion of estimated NOVA-related fuel taxes to be returned to the program. The state legislature, annually faced with citizen demands for solutions to increasingly congested roads and highways, is not likely to be sympathetic to a request to divert additional fuel tax funds to the NOVA Program, short of a more compelling need.

RCW 46.09 directs IAC to distribute NOVA funds by formula for various program purposes. The formulas are largely based on decisions that were made within political arenas and are not necessarily representative of how NOVA-related fuel is used or responsive to the amount of funding needed within categories.

User Conflicts and Solidarity

There are financial and resource limits to the number of trails that can be dedicated to a particular activity within the state. Further, there is also an increasing number of users on those trails. This combination of an increased number of users and a limited recreational trail system has the potential to cause user conflicts.

One issue the Plan study sought to address was how to build solidarity between user groups. On this subject there were extreme perspectives which led to additional questions. When the initial in-depth interviews were conducted some user group representatives denied conflicts exist, while others agreed conflicts exist with the best solution being further segregation and/or the institution of educational programs.

Focus group respondents, however, often indicated points of views in direct opposition to those cited by members of the Ad Hoc *NOVA Plan* Advisory Committee. That is, in numerous instances focus group recreationists said it may be club or organization leadership that leads or heightens attention on user group conflicts. These “grass-roots” level participants indicated a strong willingness to “get along,” bridge differences, and to work for a common good between user groups.

Overall, respondents were in favor of building solidarity between groups. Education, better communications and trail signs identifying the anticipated user group are areas suggested as improvements.

There were also many instances where respondents were misinformed, apparently through organizational communications, on substantive issues related to NOVA. These comments warrant responses to several questions: to what level do club and organization leadership represent their constituencies? Are club and organization leadership providing accurate, impartial, and up-to-date information to their constituency? What is the best way to communicate this information?

Environmental Concerns

The 1993 *NOVA Plan* required supporting plans and the “*completion of applicant required processes... prior to submission of an application to IAC for NOVA capital funding.*” Some, however, primarily pedestrian user group respondents, indicated this lacked specificity regarding needed environmental review. In order to eliminate confusion, Policies C-8 (page 11) and D-7 (page 14) were revised.

B. ORV Education/Information and Law Enforcement

E&E Funding

Education and enforcement personnel indicated several areas of importance during Plan research. Foremost among these were:

- Increasing the E&E Full-Time employee Equivalent (FTE) dollar support limit;
- Maintaining the current option to provide matching value (since most E&E respondents indicated they currently match in excess of 40%); and
- Giving priority to ORV areas previously funded to ensure they receive NOVA E&E support.

There is concern by many E&E project sponsors regarding the growing opposition within local government for continuing the sponsorship of NOVA projects. E&E sponsors indicate increased financial obligations by sheriff departments and an unfavorable cost-benefit perception by organization administration that may eventually lead to the elimination of individual department sponsored projects.

The issue of E&E FTEs was the most discussed topic during the E&E focus groups. (See Policy B-5, page 9.) Since 1982, IAC has limited the amount an E&E position may be funded to \$45,000 per FTE. Related to this is the fact that E&E personnel support maintaining the \$30,000 capital equipment limit as they feel the additional monies would be better directed toward

supporting FTEs. When discussing full funding and matching components, respondents suggested the \$45,000 FTE limit nearly guarantees each NOVA funding request has a matching component. Respondents suggested the majority of E&E projects support positions through matching components, in many cases in excess of 40%.

E&E personnel also indicated some educational program activities should continue to receive a low priority. These include booths at shopping malls and county fairs, public service announcements, and in-school programs.

Work Plan Requirement

Even though there are arguments supporting adoption of work plans by E&E project sponsors^[2], continuation of this requirement was opposed in program administrators and E&E focus groups. The respondents indicated that once completed, their work plans are not consulted again. E&E officers said that when first assigned to E&E duty, they did not consult the document, but rather were briefed by their partner on the assignment's purpose, goals, objectives, etc. The elimination of this requirement may allow the officers to dedicate more time to other activities.

Retaining a few key elements in a non-plan format (Policy B-4, page 9), however, will be important. For example, such items as a listing of program goals and objectives, and a description of demand and need are important to understanding a project, and should be made a part of the application and evaluation process.

Education or Enforcement?

As stated in the 1993 *NOVA Plan*, debate surrounds certain ORV educational efforts, which many feel are more promotional than educational in nature—encouraging use rather than just providing information (Policy B-3, page 8). For example, some believe that in-school E&E presentations can encourage otherwise uninterested youngsters to desire the speed and power of an ORV. Plan research suggests respondents favor interest clubs or organizations as the preferred means of communicating information, rules, regulations, environmental issues and trail etiquette. E&E funded agencies tend to favor using enforcement as their educational tool.

^[2] Work plans can help in decision making, coordinating interests, prioritizing needs and actions, evaluating trends, budgeting, ensuring continuity of direction as officials change.

Education/Enforcement and Nonmotorized Trail Recreation

An issue raised by some members of the nonmotorized community is the need for a greater law enforcement presence in areas used by hikers, equestrians, and mountain bicyclists. Although the NOVA statute (chapter 46.09 RCW) now limits E&E programs to ORV areas, on a practical level, it overlooks the need for more protection on public lands. Consideration should be given to broadening the statute to allow E&E activities in all NOVA Program areas.

In particular, efforts should *focus on recreational behaviors*, including site protection, minimum impact camping, conflict reduction, etc. If this occurs, reductions in remote area non-recreation crime would likely follow. That is, there would be less trash dumping, firearm use, trailhead thefts, trespass, and vandalism.

C. ORV Facility Planning, Acquisition, Development, and Maintenance

Public Land Closure Perception

Research for the Plan suggests that many motorized recreationists believe that public lands are being closed to their recreational pursuits. A number of respondents, from individual interviews, focus groups, and Internet survey support these sentiments.

Given current data, however, it is difficult to gauge the number of trails that have been closed to ORV recreation or, indeed, if any “official” trails (as opposed to unsanctioned user-built trails) have actually been closed. The most recent comprehensive trail inventory is over a decade old. Anecdotal evidence from land managers suggests some “user built” trails have been closed.

Regarding this issue, motorized recreationists have multiple concerns. They feel:

- They are losing access to their public lands;
- That if an ORV project is funded, subsequent legal action by other groups will thwart their efforts;
- That their opinions are discounted by agency bureaucracy; and
- That if non-motorized recreationists have their way, most motorized trail recreation will eventually be illegal.

In short, they fear for the survival of their sport and access to public lands.

ORV Sport Parks

In developing background for this Plan, many respondents questioned the level of NOVA Program support for events at the three competition sport parks assisted with IAC funds versus maintenance of backcountry trail-related facilities. It is generally felt that fees and charges at the parks should cover more of the cost of user events, and be more comparable to other publicly managed opportunities. (Policy C-12, page 12.)

Supporters of NOVA funding for management of sport parks feel that, because the areas provide unique regional opportunities, they should receive more funding support from state sources. Others point out that IAC's support of acquisition and development of sport parks has created increased demand for limited ORV dollars for M&O, and has reduced the ability to create new, dispersed ORV trail opportunities.

Plan research suggests respondents generally favor the concept of sport parks becoming more self-sufficient. In fact, sport parks consistently ranked lowest for motorized users. This is consistent with the findings that show few of the respondents to the Internet survey^[3] use the sport park facilities. However, it should be noted that both groups (motorized and non-motorized) recognize the specialized need for the type of recreation ORV sport parks can provide.

Return to ATV Roots

Some motorized recreationists have expressed interest in returning the NOVA Program to its 1971 All-Terrain Vehicle (ATV) Program beginnings. They suggest if NOVA were to "return to its roots," more ORV trails and facilities could be built and more funding could be made available for trail maintenance.

In light of the perception by many motorized recreationists that funding is dwindling and opportunities are being closed to their activities, it may seem attractive to return to a time when the only funding consideration involved ORVs. The fact is, however, that there are few backcountry facility and trail funding programs. In 2000, for example, combining IAC's two backcountry trail programs, NOVA and the National Recreational Trails Programs, similar amounts were dedicated to non-motorized and ORV activities: \$1,307,533 (nonmotorized) and \$1,454,975 (ORV).^[4]

The 1986 Legislature revised the law governing NOVA Program funding, thus allowing for the eligibility of certain NHR recreation facilities. To seek a

^[3] Respondents to the Internet survey were a self-selected sample and the findings do not necessarily represent opinions of all motorized and non-motorized recreationists. The findings reflect only the opinions of those people who participated.

^[4] IAC's Washington Wildlife and Recreation Program—Trails Category, which primarily targets non-motorized urban trails, was not included in this analysis.

return to the 1971 legislation would require legislative change and would eliminate NHR program contributors whom many feel should benefit from this program.

Grant Limits and Match

Generally, respondents to this planning process were satisfied with the application requirements and process. Agency personnel were asked a series of questions to determine perceptions and opinions on a variety of grant related questions. Administrators suggest maintaining the policy on grant limits and matching values. Respondents said obtaining a volunteer match is usually not difficult. (Policy C-3, page 10.)

ATV and SUV Increases and Lack of ATV Trails

Since completion of the 1993 *NOVA Plan*, evidence from IAC's *Statewide Outdoor Recreation Participation Assessment and Plan* (2001) focus groups suggests a marked increase in All-Terrain Vehicle (ATV) and Sport Utility Vehicle (SUV) use. Program administrators, education and enforcement personnel, and ATV recreationists cite a lack of ATV trails. Unfortunately, it is difficult to gauge the miles of designated ATV trail in Washington as the last trail inventory is over a decade old. For this reason, IAC has been working to secure funding for an update.

In part, it is the responsibility of recreationist user groups to persuade land managers that such projects are needed and that facilities should be provided. Some have suggested the reason that new facilities have not been provided is that land managers lack the necessary resources to defend such proposals from legal action brought by opposing trail groups. This is perhaps one reason why IAC has seen a decline in grant applications for new ORV facility developments.

D. NHR Facility Planning, Acquisition, Development, and Maintenance

Allocation of IAC-Administered NOVA Funds

State law limits IAC grants for NHR projects to a maximum of 20 percent of available NOVA funding. Some have argued that this allocation significantly under-represents the proportion of fuel used on NHRs by people accessing non-ORV recreation opportunities. For some, this gives rise to the question: on what is the allocation of funding based? That is, for ORV recreationists, is it based on their use of NHRs and related trail opportunities, or is it based just on their use of trails? Others want more NOVA money to be dedicated to NHR purposes. A reassessment of the allocation process is important. However, any change in apportionment would require legislative action and

would have ramifications for the entire NOVA Program. (Policy A-2, page 7 and Appendix 1, Fuel Use Study, page 30.)

Grant Limits and Match

Generally, respondents to this planning process were satisfied with the application requirements and process. Agency personnel were asked a series of questions to determine perceptions and opinions on a variety of grant related questions. Administrators suggested maintaining the current policy with regards to whether a grant limit or a match should be established. Respondents said obtaining a volunteer match is usually not difficult. However, National Park Service representatives said that forecasting and securing volunteer involvement on a project which may not begin for a year or more is often a challenge.

Roadless Areas

The issue of roadless areas was brought up during the research process. Some non-motorized recreationists do not want new motorized trails constructed or existing trails hardened (i.e. concrete blocks) in roadless areas as they feel doing so could prevent those areas from receiving a Wilderness designation in the future. IAC's policy, however, is to not duplicate the land use decisions made by other entities. IAC only sets funding priorities after decisions have been made by the resource management agency.

E. ORV and NHR Common Themes

Maintenance is a High Priority

The most common theme during all phases of the Plan research process was maintenance. The majority of respondents favor more maintenance and better funded NOVA M&O projects, a sentiment particularly strong among non-motorized recreationists. Although a high proportion of motorized recreationists do favor maintenance, their number one choice for funding is acquisition and development of new trails, followed closely by maintenance.

Policies C-5 (pg. 10), C-10 (pg. 11), D-5 (pg. 14), D-11 (pg. 15), D-12 (pg. 15).

One of the most intensely discussed issues involved the suggestion by land management program participants is that, historically, too much funding has been directed to capital projects without the necessary maintenance infrastructure and funding to support the efforts.

Non-motorized respondents to individual interviews, focus groups, and the Internet survey clearly indicated that the maintenance of trails is their highest priority. Based on the 1993 *NOVA Plan*, IAC did not provide funding for M&O of NHR recreation facilities, although Chapter 46.09 RCW empowers it to do so. The policy recommendations in this 2002 Plan reflect

the change in user group attitudes that now strongly favor including NHR M&O funding.

ORV & NHR Cooperation

The concept of having motorized and non-motorized recreationists (NOVA Advisory Committee) working together was a predominant theme uncovered during research. Respondents suggest all user groups need to work together for better funding and to ensure continued access to trails and facilities.

Overall, respondents were in favor of building solidarity between groups. More education, better communications, and signs that identify the user groups one can expect to encounter on a trail were suggested improvements. There were also many instances where respondents were misinformed, apparently through organizational communications, on substantive issues related to NOVA.

Encourage Increased Level of Volunteer Participation in Projects

As stated in the policy section, research indicates support for projects that supply the “biggest bang for the buck,” or a more favorable cost-benefit. By encouraging an increased level of volunteer participation in M&O projects, a reduction in overall trail maintenance expenditures will occur. To this end, IAC will continue to encourage the establishment of volunteer maintenance projects with land managing agencies.

An example of the type of volunteer maintenance projects favored includes a crew leader type program. Working in cooperation with land managing agencies, such programs involve volunteer groups consisting of motorized and non-motorized recreationist working together, when appropriate, to address trail maintenance issues. In this type of project, agency personnel contract with non-profit groups and train crew leaders to conduct various trail maintenance projects. These trained crew leaders, in turn, coordinate intensive summer trail maintenance projects using volunteer labor. Since volunteer projects potentially have a high benefit–cost ratio, consideration should be given to rating them higher on project funding applications.

Trail Signs

Respondents agreed that trail managers should be encouraged to provide information (signs, website information, etc.) about the types of usage to be expected on each trail. (*Primary management objective* Policies C-1 [page 10] and D-1 [pg. 13].) Support for this concept was very strong among both motorized and nonmotorized user groups. Focus group participants, also, generally supported the use of signs and increased information, although they also expressed concern about the effectiveness or clutter of too much signage.

Loop Trails

Respondents indicated a number of trail design features that were important, such as water bars, properly maintained trails, and trails with interesting and varied natural features. However, a topic that was very common among respondents was the lack of loop trails. This issue was of particular importance to motorized recreationists as well as equestrian and mountain bicyclists. During the research process many respondents indicated the lack of loop trails and the frustration of having to turn around at the end of a circuit, or to end up at a “tank trap” (a deep trench dug across a trail to discourage further access). Loop trails may afford many recreationists an opportunity for a better experience and increased safety by directional travel.

Agencies should take this into account when creating new trails or expanding existing trails. IAC may also expand the information it provides in its current “design” evaluation question and provide examples of what constitutes good design.

Conclusion

Adoption of this Plan marks the 31th year of the NOVA Program. Originally conceived to provide financial aid for motorized trail recreation and certain non-gasoline tax supported roads, today it has evolved to also provide major assistance for ORV education/enforcement and NHR facilities.

As the program enters its fourth decade, it faces important challenges. For some, there are trail conflicts and too few opportunities, while for others there are program administration issues. This Plan addresses these subjects and its decisions will set direction for years to come. Regardless, the activities the Plan covers will continue to be a vital part of the quality of life enjoyed by Washington's residents and visitors alike. We will continue to hike and drive four-wheel drive vehicles; ride motorcycles, ATVs, mountain bicycles, and horses. From experience we also know that new activities will be added to this listing of things we like to do.

Perhaps more than ever we will continue to go outdoors to enjoy nature to leave behind the stresses common to today's lifestyles.

Appendix 1

A. NOVA Program, A History

1. ATV Program: 1971 – 1978

In 1971 the legislature created the state All-Terrain Vehicle (ATV) Program through legislation written into Chapter 46.09 RCW. This law, as later amended, established a fund source for the development and management of "ATV recreation." At that time this was an all encompassing, generic term for motorized, off-highway recreation with motorcycles (trail bikes), four-wheel drive vehicles, and conventional automobiles when used on backcountry roadways. Since then, the term "ATV" has come to mean something entirely different. It now refers to a small, easy-to-straddle off-road vehicle (ORV) with three or four low pressure tires.

The ATV Program was the result of two groups' interest in the state gas tax revenue generated from motor vehicle fuel consumed off of public highways. One group, mostly composed of state government agencies, noted that there were extensive road systems on state lands (namely those managed by the Departments of Natural Resources, Wildlife, and the Parks and Recreation Commission). These road systems were open to public use, but built and maintained from fund sources other than the tax on motor vehicle fuels. The legislature wanted to divert a portion of motor fuel taxes to manage these "NHRs."^[5]

The other group looking at state gas tax revenues generated from motor fuel consumed off highways was a coalition of ORV enthusiasts. That group took a different tack to a similar goal. Under the terms of RCW 82.36.280 there is a general rule that a refund will be made on any taxes paid on motor fuel consumed off the "regular" public highway system. Refunds are made to boaters, farmers, and others for off-highway use of motor fuels under this section. The coalition wanted motor fuel taxes paid on fuel consumed by ORV vehicles to be diverted to programs benefiting the users.

Almost simultaneously, the state legislature and the ORV recreation coalition sought to divert some gasoline tax revenues from public highway programs to nonhighway and ORV programs. The result was the 1971 legislation which created the ATV Program.

^[5] It was determined that, although the State Constitution earmarks the gas tax for exclusive use for highway purposes, this does not mean that the money can only be used for city streets, county roads and public highways built or maintained by the State Department of Transportation. The term "public highway" appeared to be broad enough to include other roads constructed and maintained by public agencies. To clarify the issue, a new term -nonhighway roads (NHRs)- was coined. These are roads that are open to public use and are not constructed but may potentially be maintained, at least in part, with gas tax revenues. (In the early 1970s, only state and privately managed roads were classified as "nonhighway.")

Under the ATV Program, IAC distributed one percent of the fuel tax, along with a portion of the permit fees paid by ATV users. A block grant type of program helped state agencies in maintaining certain roadways, and assisted both state and local agencies in managing ATV recreation. IAC distributed nearly eight million dollars among 34 agencies between 1972 and 1978 under this program. Most of the ATV expenditures were for coordinators, site searches and plans, and some land acquisition and development.

Fuel Use Study: 1972 – 1973

In 1972-73 an *All-Terrain Vehicle Fuel Use Study* was conducted to help determine how much of the fuel tax should be diverted to the ATV Program. The study, conducted by the Research and Technology Division of the then Department of Motor Vehicles, examined how much gas tax revenue was generated from motor vehicle fuel consumed by recreational traffic on NHRs^[6] and by recreational use of ORVs. The study revealed that nonhighway recreational uses accounted for approximately 4.61 percent (77,891,460 gallons) of the 1,689,211,245 total taxable gallons of motor fuel sold during the period July 1, 1972 through June 30, 1973.

While the study provided information on how much of the fuel tax should be dedicated to nonhighway recreation or ATV purposes, it did not provide detailed information about the proportions of fuel used by various types of ATV use. For example, the study did not separate fuel consumption between NHRs and trails/lands on privately-managed lands; nor did it measure the amount of fuel used for recreational purposes on federally-managed NHRs (national forests and national parks), on which significant recreation-related travel occurs. Results of the study did indicate that of the nonhighway-utilized fuel sold:

- 40.5 percent was used on state managed NHRs;
- 28.5 percent was used on privately managed NHRs and trails/lands; and
- 31.0 percent was used on state and federally managed trails/lands.

^[6] RCW 46.09.020 seems to define an NHR broadly enough to include the popular routes leading to Paradise and Sunrise in Mt. Rainier National Park, Hurricane Ridge in Olympic National Park, and Windy Ridge in the Mt. St. Helens National Volcanic Monument. Across the state, NHRs are used by recreationists to access rivers and forest lands (including trailheads, used predominately by equestrians, hikers, mountain bicyclists, off-road vehicle recreationists, and cross-country skiers). NHRs are also used by those who may never leave the vicinity of their vehicle while they enjoy the ride, a roadside viewpoint, picnic table, or a related support facility.

2. ORV Program: 1977 – 1986

By the mid-1970s, it became apparent that most of the agencies participating in the IAC-managed ATV Program were experiencing great difficulties in using the funds to achieve the program's objectives. Therefore, a coalition of recreation user groups and state agencies approached the 1977 Legislature requesting that certain modifications be made to the All-Terrain Vehicle Act.

As a result, the legislature amended Chapter 46.09 RCW to create the Off-Road and Nonhighway Vehicles Act, better known as the ORV Act. A primary change in this legislation was the way ORV funds were distributed. Under the amended law, funds distributed by IAC shifted from a block grant method to one based on individual project merit. In other words, funding could only occur now after project sponsors had presented firm plans and commitments to provide ORV recreation.

The amount of motor vehicle fuel excise tax transferred to the ORV Program remained at one percent. The 4.61 percent level found in the fuel use study was not politically feasible to refund.

Under the 1977 Act, funding earmarked for the benefit of NHR facilities, previously distributed by IAC, was now provided directly to the state agencies. The Department of Wildlife received 3.5 percent of the one percent refund "solely for the acquisition, planning, development, maintenance and management of NHRs and recreation facilities." The Department of Natural Resources received 25 percent for the same purposes, plus another 20 percent "to be used only for the acquisition, planning, development, maintenance and management of designated ORV trails, areas and campgrounds."

In effect, IAC was out of the NHR funding picture. It was charged solely with distributing the remaining 51.5 percent of the one percent to federal, state and local agencies to manage ORV programs.

The first year of project-specific funding and allocation of the first state ORV grants to a federal agency (Wenatchee National Forest) was 1978. Projects funded in 1978 would prove to be an accurate prediction of program direction for the next several years: grants to counties emphasized planning, intensive use, and education/ enforcement, while grants to state and federal agencies emphasized dispersed opportunities on trails. No requests were received from cities.

From 1978 through 1986, IAC administered \$9.7 million under the ORV Program for ORV recreation facilities and programs (Table 1).

Table 1. <i>IAC Administered ORV Program Funding (1978 - 1986)</i>				
Agency Type	Off-Road Vehicle Projects			TOTAL
	Education and Enforcement	Maintenance and Operation	Planning, Acquisition & Development	
Local	\$1,956,000	\$1,820,000	\$2,810,000	\$6,586,000
State	10,000	261,000	231,000	502,000
Federal	0	2,000	2,582,000	2,584,000
TOTAL	\$1,966,000	\$2,083,000	\$5,623,000	\$9,672,000

3. NOVA Program: 1986 – 1993

As the mid-1980s approached, it again became apparent that more fine-tuning of the ORV legislation would be needed. The program had evolved to a point where a different user group was demanding to be heard—the "nonmotorized" recreationists. This group is composed primarily of individuals who use NHRs to access nonmotorized recreational opportunities, such as hikers or equestrians who travel on Department of Natural Resources or Forest Service roads to access trail heads. This group wanted a share of the NHR funds for the acquisition and development of nonmotorized recreational lands and facilities.

A second reason for modifying Chapter 46.09 RCW was to establish priorities among the agencies and user groups competing for funding under this grants program. A compromise for allocation of program funds, reached after months of intense debate, mandated that:

- IAC would receive 54.5 percent (instead of 51.5 percent) of the available funds for distribution for recreational NHR facilities, ORV education and law enforcement activities, and recreational ORV facilities;
- The Department of Natural Resources would receive 40 percent for NHR and ORV purposes (and divert 10 percent of its share to IAC for ORV law enforcement);
- The Department of Wildlife would continue to receive 3.5 percent for NHR purposes; and
- The State Parks and Recreation Commission would receive 2 percent for ORV purposes.

A NOVA Program Advisory Committee, established by the 1986 Act (RCW 46.09.280), assists IAC in administration of its NOVA funds. The committee consists of NHR and ORV recreationists, and local, state and federal agency representatives. Committee members provide valuable advice to IAC and represent the views and needs of the users, organizations and agencies which are affected by NOVA funding.

Between 1986 and 1993, IAC had administered \$17.6 million for ORV recreation facilities and programs, and NHR recreation facilities (Table 2).

Table 2. <i>IAC Administered NOVA Program Funding (1986 – 1993)</i>					
Agency Type	Off-Road Vehicle Projects			Nonhighway Road Projects	TOTAL
	Education and Enforcement	Maintenance and Operations	Planning, Acquisition & Development	Planning, Acquisition & Development	
Local	\$3,954,000	\$2,108,000	\$3,880,000	\$372,000	\$10,314,000
State	170,000	0	1,190,000	799,000	2,159,000
Federal	313,000	114,000	2,637,000	2,138,000	5,202,000
TOTAL	\$4,437,000	\$2,222,000	\$7,707,000	\$3,309,000	\$17,675,000

In 1990, the legislature raised the fuel tax \$.05 per gallon (from \$.18 to \$.23). At that time it also amended Chapter 46.09 RCW (and other recreational fuel tax refund statutes) to prevent any of the increase from being refunded to the NOVA Program. In effect, the legislature placed a "cap" on the refund, limiting it to the portion of the fuel tax rate in effect in 1990.

1992-93 Legislative Session

1992 saw the first serious attempt to modify Chapter 46.09 RCW since the NOVA Program was created in 1986 and the NOVA fuel tax refund was "capped" in 1990. This attempt was embodied in SSB 5319.

The effect of SSB 5319, if passed into law, would have been two-fold. First, it would have lifted the 1990 "cap" imposed on fuel tax increases for both the NOVA Program and the IAC-managed Boating Facilities (Initiative 215) Program. Second, the proposed law would have given IAC discretion to move funds between ORV and NHR categories. The amount of NOVA funds earmarked for E&E grants would have remained fixed at 20 percent.

Although passage of the bill would have increased the amount of NOVA funding, some NOVA stakeholders were concerned about changes to the funding apportionments. In a transportation committee hearing reflective of the contentious nature of the program, conflicting statements were made by apparently polarized NOVA interests—motorized interests opposed the proposal while most nonmotorized interests favored it.

Although the bill passed out of policy committees it never reached the floor of the Senate for a vote. Some observers believe that the bill survived early defeat because of the interest of Eastern Washington legislators in securing more funds for county ORV law enforcement efforts, and the considerable support of those benefiting from increases to the boating facilities funding.

4. NOVA Program: 1994 - 2002

In the period since adoption of the 1993 Plan and the present, the Program has funded 289 NOVA projects totaling more than \$28 million dollars, including sponsoring agency contributions (Table 3).

Table 3. <i>IAC Administered NOVA Program Funding (1994 – 2002⁽¹⁾)</i>				
Funding Category	# of Projects	IAC NOVA Funding	Sponsor Match	Total Value
Education & Enforcement (ORV E&E)	59	\$5,302,511 ⁽²⁾	\$1,875,150	\$7,177,622
Maintenance & Operations (ORV M&O)	58	4,688,742	2,926,934	7,615,676
Off-Road Vehicle (ORV) Projects	81	7,260,020	974,859	8,234,879
Nonhighway Road (NHR) Projects	75	3,394,507	2,165,249	5,559,757
Total	289⁽³⁾	\$20,645,780	\$7,942,193	\$28,587,973
⁽¹⁾ NOVA projects were not funded in 2002; funding meetings were rescheduled for March of succeeding years.				
⁽²⁾ Amount exceeds 20% [RCW 46.09.170(1)(d)(iii)] due to Dept. of Natural Resources transfers provided under RCW 46.09.170(1)(a)(v).				
⁽³⁾ Includes a formerly funded project type ("ORV support coordinator"). From 1979 – 1993 16 such projects were funded.				

B. ORV Education/Information and Law Enforcement History

The education and enforcement (E&E) category of the NOVA Program is established in RCW 46.09.170. This statute authorizes the use of funds for "ORV user education and information; and law enforcement programs." Until 1986, 50 percent of the total ORV funds managed by IAC could be allocated to the E&E program.

Under the block grant ATV Program in effect in the early and mid-70s, few discrete law enforcement projects were funded. In 1977, the "ATV law" was changed to the "ORV" law. With the change, state ORV funds were no longer made available on a block grant basis. Instead, ORV funds were distributed on a competitive project basis. That year, the first education-oriented grant was made.

Between 1978 and 1985, education and enforcement grant applications competed with all other ORV project applications. The number and amount of education and law enforcement grants grew quickly. In late 1985, concern was expressed regarding the amount of available monies used for E&E activities. E&E funding had increased over 75 percent between 1984 and 1985 (Table 4). In fact, grant dollars awarded to E&E projects over a six-year period had increased 500 percent. As one result, IAC adopted an

administrative guideline to limit E&E grants to \$45,000 per full-time equivalent (FTE).

Table 4. ORV Education & Enforcement (E&E) Grants Since 1979					
Year	Amount	# Projects	Year	Amount	# Projects
1979	\$101,000	3	1989	-	-
1980	146,000	5	1990	\$749,000	18
1981	146,000	4	1991	685,000	16
1982	242,000	5	1992	798,000	16
1983	370,000	7	1993	599,000	12
1984	316,000	7	1994	1,280,342	15
1985	559,000	9	1995 [†]	1,356,311	15
1986	562,000	10	1997	1,412,578	15
1978	679,000	14	1999	1,459,036	14
1988	606,000	14	2002 [‡]	1,585,000	14
Note: In November 1989 a new schedule of deadlines was adopted which moved the E&E funding meeting from November to March of each year. To account for the additional time needed to carry projects through to the next funding meeting in March of 1990, three months of supplementary funding support was added to each 1988 project. (Funding meeting dates were also changed in 1997 and 2002.) [†] 1995 marks the beginning of the biennial funding cycle. [‡] 2002-2003 funding is an estimate based on 14 E&E applications requesting \$1,585,000.					

A year later, special provisions related to E&E were supported when the NOVA legislation (Chapter 46.09 RCW) was amended. One provision limits E&E funding from IAC's NOVA apportionment (54.5 percent of total) to no more than 20 percent. Another provision, made during last-minute negotiations among various interests, has the Department of Natural Resources return 10 percent of its direct NOVA appropriation to IAC for E&E grants in those counties where DNR manages ORV facilities.

The *1987 Washington State Off-Road Vehicle Plan* recommended "E&E projects give priority to proposals which demonstrate a primary focus on the education and safety of ORV users, and the promotion of a responsible outdoor ethic."

NOVA funding supports a wide variety of education and enforcement activities. Some Sheriff's Departments, such as those in Chelan and Yakima County, field uniformed law enforcement officers who contact ORV enthusiasts on trails and in campgrounds.

An increasing number of USDA Forest Service sponsors receive NOVA funding for seasonal "trail rangers" who perform ORV education and enforcement. The Forest Service looks to these rangers to help manage

ORV use on federally owned lands, especially as new or improved ORV facilities such as trails and camps have increased in numbers and management challenges.

The Department of Natural Resources also competes with other sponsors for E&E funding. The agency is increasingly faced with "urban problems" on its lands. Vandalism, shootings, and other illegal activities have forced DNR to request funding for its own law enforcement personnel.

In prior years, non-enforcement programs, such as those in Snohomish County (1990-92) and the Tacoma Metro Park District, have used NOVA funds to support education/awareness activities (no law enforcement elements). These agencies emphasized in-school and pick-up-and-ride programs to teach the fundamentals of environmental sensitivity and riding safety to young people.

Other miscellaneous E&E activities are not easily categorized. Examples include publication of the *Washington ORV Guide* (a reference of places to ride, legal requirements, and riding etiquette), displays at the Puyallup Fair (a major booth at the state's most-attended exposition), and an ORV curriculum project (development of a standardized education "package" for program sponsors).

2002 Issues

Education and enforcement (E&E) and maintenance and operations (M&O) grants were streamlined in 1995 from annual funding to a biennial cycle.

Since the 1993 Plan update a few long standing county participants in the E&E program have dropped out:

- Kittitas County, 18 projects from 1978-1999, none thereafter.
- Thurston County, 14 projects from 1978-1991, none thereafter.
- Pierce County, 6 projects from 1985-1992, none thereafter.

One reason for these departures from the program is the difficulty in finding qualified deputies to work only 6 months each year.

Longstanding program participants are:

- U.S. Forest Service, 45 projects from 1987-2001.
- Yakima County, 25 projects from 1978-2001.
- Chelan County, 23 projects from 1978-2001.
- Grant County, 15 projects from 1983-2001.
- Washington State Department of Natural Resources, 17 projects from 1993-2001.
- Mason County, 13 projects from 1985-2001.

C. ORV Facility Planning, Acquisition, and Development History

Off-road vehicle (ORV) activity began modestly in the years immediately following the Second World War, when surplus military vehicles came into use for recreational purposes. In the late 1960s and early 1970s, ORV recreation exhibited rapid growth.

The increase in recreational use of ORVs quickly came into conflict with a decided lack of developed facilities designed and sanctioned for ORV use. Because of this, ORV use often impacted communities or neighborhoods, land and resources, and other forms of recreation in a negative manner.

The initial lack of facilities forced ORV use into a difficult position—the most visible use was unsanctioned and therefore not widely accepted by the general public. Virtually all ORV use quickly became identified in the public mind with objectionable behavior—whether an unlicensed youth riding an un-muffled motorcycle on a vacant lot, or intense ORV use heavily impacting vegetation on public or private land.

Most recreation-providing agencies, especially at the local level, did not have the resources necessary to plan or provide ORV facilities. One key resource initially in short supply was funding.

Under the ATV Program, IAC distributed approximately \$8 million in block grants to 31 counties and to the Department of Game (now Fish and Wildlife), the Department of Natural Resources, and the State Parks and Recreation Commission. Funds were distributed according to the ORV facility inventory of a given area.

Dissatisfaction with a perceived lack of accountability in the "inventory-driven" block grant program led to the formation of a user-oriented task force to review the ATV Program. Coordinated by IAC, the task force included the Northwest Motorcycle Association, the Pacific Northwest Four-Wheel Drive Association, and the Department of Natural Resources. The task force's efforts resulted in important changes to Chapter 46.09 RCW in 1977, including the creation of a project-specific grant program, which allowed grants explicitly for planning, land acquisition, and facility development.

Since the late 1970s, IAC has committed about \$33.2 million in funding for ORV planning, acquisition, and development projects under the ORV Program, and later the NOVA Program.

Historically, land acquisition projects have not played a very large role in the NOVA Program. For example, there were only 9 acquisition projects funded between 1978 and 1993. Only 5 projects were funded between 1994 and 2000. Nearly all of these projects were submitted by the State Department

of Natural Resources to acquire leases for recreation facilities, such as trails and campgrounds.

D. ORV and NHR Facility Maintenance and Operation History

ORV and NHR recreation facilities include trails, trail heads, campgrounds, and day use areas. Owning and managing these facilities involves many ongoing responsibilities, including trail clearing, outhouse and picnic table repair, fire and weed control, fence and sign repair, and visitor management. Ideally, maintenance and operation (M&O) should achieve a standard that, among other things, protects the resource and visitor, preserves functionality, satisfies legal requirements, and minimizes long-term capital costs.

The NOVA Program has the ability to fund management of ORV and NHR facilities. Because IAC is given the discretion to use NOVA funds for capital and/or management purposes, it must decide the most beneficial uses. Thus, due to the scarcity of NHR funds, and until adoption of the 2002 Plan, IAC policy did not allow the granting of funds to NHR M&O projects.

Since 1978, IAC has provided over \$11.9 million for maintenance and operation of ORV facilities. The vast majority of IAC's maintenance and operation support has gone to local agencies for the support of intensive use areas—ORV sports parks.

In the late 1980s at least three factors contributed to increased demand for NOVA's maintenance and operation funding:

- Completion of a third IAC-funded sports park in Spokane County. ORV sports parks have traditionally received the vast majority of their management funding from IAC. After completion, and despite initial assurances that its facility would be self-supporting, Spokane's sports park began competing with facilities in Thurston County and Richland for M&O dollars.
- Shifting of tasks previously funded under Education and Enforcement (E&E). It became increasingly apparent that many dimensions of proposed projects, previously funded as E&E, were M&O responsibilities. These tasks were separated out and shifted to projects seeking M&O funding.
- Increase in Forest Service sponsored M&O projects. Forest plans identify NOVA as a potential funding source for management of its dispersed ORV opportunities.

2002 Update

Sports Parks. For the 2000-01 period, maintenance and operation (M&O) grant requests from Spokane County for its Airway Heights ORV Sports Park decreased substantially. For that period, it requested and received \$64,820 for a tractor/backhoe and general-liability insurance. No funding was requested for general M&O, even though considerable funding had been granted for these purposes previously: \$207,898 (1994-95), \$207,301 (1996-97), \$104,375 (1998-99).

Early in 1999, a private party was engaged to operate the park on behalf of the County with its full range of ORV activities and events: open 10 months of the year (10:00 AM to dusk, seven days a week), including a four-wheel drive course, mud-bog, sand drags, asphalt racing, oval dirt racing, motocross track and overnight camping. In addition to providing the majority of the overhead expenses required to operate the park, the contractor was obligated to provide an estimated annual in kind contribution of \$50,000 to Spokane County, reflected in the form of the two year "Sponsor Match" of \$100,000 for the IAC grant.

Forest Service Trails. Maintenance and operation (M&O) grants to the U.S. Forest Service have increased dramatically since the 1993 Plan:

- 1984-1993, 11 grants, during 10 years, an average of 1.1 grants/year.
- 1994-1999, 35 grants, during 6 years, an average of 5.8 grants/year.

The main reason for this increase is probably the removal of a policy affecting M&O funding to the Forest Service. Prior to 1991, the policy limited the Forest Service to all but the most rudimentary and low cost M&O trail maintenance, such as spring trail "log outs" (i.e. removing debris that would blow/fall down over the winter). Until that time, IAC's priority was to support new trail development, of which the Forest Service provided many proposals for IAC to fund:

- 1978-2000, 87 development projects funded, an average of 4 projects/year.
- 1978-1993, 58 development projects, an average of 3.9 projects/year.
- 1994-2000, 29 development projects, an average of 4.8 projects/year.

From these numbers, it appears funded development projects actually increased (from an average of 3.9 to 4.8 projects per year). However, sometimes there is a fine line between defining a project as M&O or renovation. Since 1993, IAC has funded 64 ORV development projects, about 14 of which provided new opportunities. The remaining 52 projects either renovated an existing site or made improvements such as bridging creeks to allow the existing use to continue without harming the environment.

Renovation projects rarely run into environmental opposition (i.e. lawsuits, internal concerns expressed by agency biologists, etc.) when the Forest Service is completing its checklist to determine whether or not the project should

proceed on to IAC's funding process. Correcting environmental problems on existing trails was the primary reason the majority of these projects were brought to IAC.

E. NHR Facility Planning, Acquisition and Development History

Until 1986, the ORV Program, predecessor to today's NOVA Program, funded motorized projects only. That year, Chapter 46.09 RCW was amended to allow the funding of NHR projects. The rationale for the amendment is that many recreationists pay taxes on fuel when they use NHRs for purposes other than ORV recreation, thereby contributing to this fuel tax-supported program.

An NHR, as defined by Chapter 46.09 RCW is:

"... owned or managed by a public agency, or any private road for which the owner has granted a permanent easement for public use, other than a highway generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles and that is not built or maintained with appropriations from the motor vehicle fund."

An example of a "typical" NHR is a federal or state logging road. These roads are built and maintained by timber receipts, general fund appropriations, and (for roads managed by the Departments of Natural Resources or Wildlife) NHR monies from Chapter 46.09 RCW. Additionally, NHRs also include roads within state forests and parks as well as national parks and forest lands. NHR recreation projects are limited to those that are accessed primarily or exclusively by NHRs.

Chapter 46.09 RCW limits IAC's NHR project funding to 20 percent of its total NOVA fund in any given year. Through 2001, this amounted to about \$400,000 to \$600,000 per year. Until completion of the 2002 NOVA Plan, IAC allocated NHR funds to capital and planning projects. Grants for maintenance and operation projects were not allowed.

2001-2 Update

Since 1994, IAC has funded 66 NHR development projects, 23 of which provided new opportunities while 43 renovated existing facilities or completed such projects as trail bridges. Through the years, most NHR programs have shifted from a focus on development projects (pre-1994) to a focus on renovations (post-1993). Volunteer labor contributions have become very significant since 1993. There are a variety of reasons for this, including the federal downsizing of support for maintenance.

In March 2002, the Governor signed ESB 6396 [Sec. 122. 2001 2nd sp.s. c 8 s 346 (3)(b)] to amend IAC's 2001-03 NOVA appropriation as follows:

“(b) Funds may be expended for nonhighway road recreation facilities which may include recreational trails that are accessed by nonhighway roads and are intended solely for nonmotorized recreational uses.”

Appendix 2

Chapter 46.09 RCW OFF-ROAD AND NONHIGHWAY VEHICLES

SECTIONS

<u>46.09.010</u>	Application of chapter -- Permission necessary to enter upon private lands.
<u>46.09.020</u>	Definitions.
<u>46.09.030</u>	Use permits -- Issuance -- Fees.
<u>46.09.040</u>	Use permit prerequisite to operation.
<u>46.09.050</u>	Vehicles exempted from ORV use permits and tags.
<u>46.09.070</u>	Application for ORV use permit.
<u>46.09.080</u>	ORV dealers -- Permits -- Fees -- Number plates -- Title application -- Violations.
<u>46.09.110</u>	Disposition of ORV moneys.
<u>46.09.120</u>	Operating violations.
<u>46.09.130</u>	Additional violations -- Penalty.
<u>46.09.140</u>	Accident reports.
<u>46.09.150</u>	Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable.
<u>46.09.165</u>	Nonhighway and off-road vehicle activities program account.
<u>46.09.170</u>	Refunds from motor vehicle fund -- Distribution -- Use.
<u>46.09.180</u>	Regulation by local political subdivisions or state agencies.
<u>46.09.190</u>	General penalty -- Civil liability.
<u>46.09.200</u>	Enforcement.
<u>46.09.240</u>	Administration and distribution of ORV moneys.
<u>46.09.250</u>	State-wide plan.
<u>46.09.280</u>	Committee to advise on administration of chapter.
<u>46.09.900</u>	Severability -- 1971 ex.s. c 47.

RCW 46.09.010 Application of chapter -- Permission necessary to enter upon private lands.

The provisions of this chapter shall apply to all lands in this state. Nothing in chapter 43.09 RCW, *RCW 67.32.050, 67.32.080, 67.32.100, 67.32.130 or 67.32.140 shall be deemed to grant to any person the right or authority to enter upon private property without permission of the property owner.

[1972 ex.s. c 153 § 2; 1971 ex.s. c 47 § 6.]

RCW 46.09.020 Definitions.

As used in this chapter the following words and phrases have the designated meanings unless a

different meaning is expressly provided or the context otherwise clearly indicates:

"Person" means any individual, firm, partnership, association, or corporation.

"Nonhighway vehicle" means any motorized vehicle when used for recreation travel on trails and nonhighway roads or for recreation cross-country travel on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland, and other natural terrain. Such vehicles include but are not limited to, off-road vehicles, two, three, or four-wheel vehicles, motorcycles, four-wheel drive vehicles, dune buggies, amphibious vehicles, ground effects or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

Nonhighway vehicle does not include:

(1) Any vehicle designed primarily for travel on, over, or in the water;

(2) Snowmobiles or any military vehicles; or

(3) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

"Off-road vehicle" or "ORV" means any nonhighway vehicle when used for cross-country travel on trails or on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland and other natural terrain.

"ORV use permit" means a permit issued for operation of an off-road vehicle under this chapter.

"ORV trail" means a multiple-use corridor designated and maintained for recreational travel by off-road vehicles that is not normally suitable for travel by conventional two-wheel drive vehicles and is posted or designated by the managing authority of the property that the trail traverses as permitting ORV travel.

"ORV use area" means the entire area of a parcel of land except for camping and approved buffer areas that is posted or designated for ORV use in accordance with rules adopted by the managing authority.

"ORV recreation facility" includes ORV trails and ORV use areas.

"Owner" means the person other than the lienholder, having an interest in or title to a nonhighway vehicle, and entitled to the use or possession thereof.

"Operator" means each person who operates, or is in physical control of, any nonhighway vehicle.

"Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

"Department" means the department of licensing.

"Hunt" means any effort to kill, injure, capture, or purposely disturb a wild animal or wild bird.

"Nonhighway road" means any road owned or managed by a public agency, or any private road for which the owner has granted a permanent easement for public use of the road, other than a highway generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles and that is not built or maintained with appropriations from the motor vehicle fund.

"Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every way publicly maintained by the state department of transportation or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.

"Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

[1986 c 206 § 1; 1979 c 158 § 129; 1977 ex.s. c 220 § 1; 1972 ex.s. c 153 § 3; 1971 ex.s. c 47 § 7.]

RCW 46.09.030 Use permits -- Issuance -- Fees.

The department shall provide for the issuance of use permits for off-road vehicles and may appoint agents for collecting fees and issuing permits. The department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals. The provisions of RCW 46.01.130 and

46.01.140 apply to the issuance of use permits for off-road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees.

[1990 c 250 § 23; 1986 c 206 § 2; 1977 ex.s. c 220 § 2; 1972 ex.s. c 153 § 4; 1971 ex.s. c 47 § 8.]

RCW 46.09.040 Use permit prerequisite to operation.

Except as provided in this chapter, no person shall operate any off-road vehicle within this state after January 1, 1978, unless the off-road vehicle has been assigned an ORV use permit and displays a current ORV tag in accordance with the provisions of this chapter: PROVIDED, That registration and display of an unexpired ATV use permit shall be deemed to have complied with this section.

[1977 ex.s. c 220 § 3; 1972 ex.s. c 153 § 5; 1971 ex.s. c 47 § 9.]

RCW 46.09.050 Vehicles exempted from ORV use permits and tags.

ORV use permits and ORV tags shall be required under the provisions of this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision thereof.

(2) Off-road vehicles owned and operated by this state, or by any municipality or political subdivision thereof.

(3) An off-road vehicle operating in an organized competitive event on privately owned or leased land: PROVIDED, That if such leased land is owned by the state of Washington this exemption shall not apply unless the state agency exercising jurisdiction over the land in question specifically authorizes said competitive event: PROVIDED FURTHER, That such exemption shall be strictly construed.

(4) Off-road vehicles operated on lands owned or leased by the ORV owner or operator or on lands which the operator has permission to operate without an ORV use permit.

(5) Off-road vehicles owned by a resident of another state that have a valid ORV permit or vehicle license issued in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is granted under the laws of that state.

(6) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.

(7) Vehicles used primarily for construction or inspection purposes during the course of a commercial operation.

(8) Vehicles which are licensed pursuant to chapter 46.16 RCW or in the case of nonresidents, vehicles which are validly licensed for operation over public highways in the jurisdiction of the owner's residence.

[1986 c 206 § 3; 1977 ex.s. c 220 § 4; 1972 ex.s. c 153 § 6; 1971 ex.s. c 47 § 10.]

RCW 46.09.070 Application for ORV use permit.

(1) Application for annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe and shall state the name and address of each owner of the off-road vehicle.

(2) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by a fee of five dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The annual permit is valid for a period of one year and is renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of five dollars.

Any person acquiring an off-road vehicle for which an annual permit has been issued who desires to continue to use the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee of one dollar and twenty-five cents.

(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of two dollars. The permit shall be carried on the vehicle at all times during its operation in the state.

(4) Except as provided in RCW 46.09.050, any out-of-state operator of an off-road vehicle

shall, when operating in this state, comply with this chapter, and if an ORV use permit is required under this chapter, the operator shall obtain an annual or temporary permit and tag.

[1997 c 241 § 1; 1986 c 206 § 4; 1977 ex.s. c 220 § 6; 1972 ex.s. c 153 § 8; 1971 ex.s. c 47 § 12.]

RCW 46.09.080 ORV dealers -- Permits -- Fees -- Number plates -- Title application -- Violations.

(1) Each dealer of off-road vehicles in this state who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW shall obtain an ORV dealer permit from the department in such manner and upon such forms as the department shall prescribe. Upon receipt of an application for an ORV dealer permit and the fee under subsection (2) of this section, the dealer shall be registered and an ORV dealer permit number assigned.

(2) The fee for ORV dealer permits shall be twenty-five dollars per year, which covers all of the off-road vehicles owned by a dealer and not rented. Off-road vehicles rented on a regular, commercial basis by a dealer shall have separate use permits.

(3) Upon the issuance of an ORV dealer permit each dealer may purchase, at a cost to be determined by the department, ORV dealer number plates of a size and color to be determined by the department, that contain the dealer ORV permit number assigned to the dealer. Each off-road vehicle operated by a dealer, dealer representative, or prospective customer for the purposes of testing or demonstration shall display such number plates assigned pursuant to the dealer permit provisions in chapter 46.70 RCW or this section, in a manner prescribed by the department.

(4) No dealer, dealer representative, or prospective customer shall use such number plates for any purpose other than the purpose prescribed in subsection (3) of this section.

(5) ORV dealer permit numbers shall be nontransferable.

(6) It is unlawful for any dealer to sell any off-road vehicle at wholesale or retail or to test or demonstrate any off-road vehicle within the state unless he has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ORV dealer permit number in accordance with this section.

(7) When an ORV is sold by a dealer, the dealer shall apply for title in the purchaser's name within fifteen days following the sale.

[1990 c 250 § 24; 1986 c 206 § 5; 1977 ex.s. c 220 § 7; 1972 ex.s. c 153 § 9; 1971 ex.s. c 47 § 13.]

RCW 46.09.110 Disposition of ORV moneys.

The moneys collected by the department under this chapter shall be distributed from time to time but at least once a year in the following manner:

The department shall retain enough money to cover expenses incurred in the administration of this chapter: PROVIDED, That such retention shall never exceed eighteen percent of fees collected.

The remaining moneys shall be distributed by the interagency committee for outdoor recreation in accordance with RCW 46.09.170(1)(d).

[1986 c 206 § 6; 1985 c 57 § 60; 1977 ex.s. c 220 § 9; 1972 ex.s. c 153 § 11; 1971 ex.s. c 47 § 16.]

RCW 46.09.120 Operating violations.

(1) It is a traffic infraction for any person to operate any nonhighway vehicle:

(a) In such a manner as to endanger the property of another;

(b) On lands not owned by the operator or owner of the nonhighway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;

(c) On lands not owned by the operator or owner of the nonhighway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;

(d) Without a spark arrester approved by the department of natural resources;

(e) Without an adequate, and operating, muffling device which effectively limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:

(i) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;

(ii) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

(iii) With the microphone placed ten inches from the side of the vehicle, one-half way between the lowest part of the vehicle body and the ground plane, and in the same lateral plane as the rearmost exhaust outlet where the outlet of the exhaust pipe is under the vehicle;

(f) On lands not owned by the operator or owner of the nonhighway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(g) On lands not owned by the operator or owner of the nonhighway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(h) On lands not owned by the operator or owner of the nonhighway vehicle or on any nonhighway road or trail which is restricted to pedestrian or animal travel; and

(i) On any public lands in violation of rules and regulations of the agency administering such lands.

(2) It is a misdemeanor for any person to operate any nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance.

[1979 ex.s. c 136 § 41; 1977 ex.s. c 220 § 10; 1972 ex.s. c 153 § 12; 1971 ex.s. c 47 § 17.]

RCW 46.09.130 Additional violations -- Penalty.

No person may operate a nonhighway vehicle in such a way as to endanger human life. No person shall operate a nonhighway vehicle in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle except by permit issued by

the director of fish and wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon a nonhighway vehicle if the person complies with the terms and conditions of chapter 9.41 RCW.

Violation of this section is a gross misdemeanor.

[1994 c 264 § 35; 1989 c 297 § 3; 1986 c 206 § 7; 1977 ex.s. c 220 § 11; 1971 ex.s. c 47 § 18.]

RCW 46.09.140 Accident reports.

The operator of any nonhighway vehicle involved in any accident resulting in injury to or death of any person, or property damage to another to an apparent extent equal to or greater than the minimum amount established by rule adopted by the chief of the Washington state patrol in accordance with chapter 46.52 RCW, or a person acting for the operator shall submit such reports as are required under chapter 46.52 RCW, and the provisions of chapter 46.52 RCW applies to the reports when submitted.

[1990 c 250 § 25; 1977 ex.s. c 220 § 12; 1971 ex.s. c 47 § 19.]

RCW 46.09.150 Motor vehicle fuel excise taxes on fuel for nonhighway vehicles not refundable.

Motor vehicle fuel excise taxes paid on fuel used and purchased for providing the motive power for nonhighway vehicles shall not be refundable in accordance with the provisions of RCW 82.36.280 as it now exists or is hereafter amended.

[1977 ex.s. c 220 § 13; 1974 ex.s. c 144 § 1; 1972 ex.s. c 153 § 13; 1971 ex.s. c 47 § 20.]

RCW 46.09.165 Nonhighway and off-road vehicle activities program account.

The nonhighway and off-road vehicle activities program account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The interagency committee for outdoor recreation shall administer the account for purposes specified in this chapter and shall hold it separate and apart from all other money, funds, and accounts of the interagency committee for outdoor recreation. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and any moneys made available to the state of Washington by the federal

government for outdoor recreation may be deposited into the account.

[1995 c 166 § 11.]

RCW 46.09.170 Refunds from motor vehicle fund -- Distribution -- Use.

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on the tax rate in effect January 1, 1990, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090. The treasurer shall place these funds in the general fund as follows:

(a) Forty percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for planning, maintenance, and management of ORV recreation facilities, nonhighway roads, and nonhighway road recreation facilities. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than five percent may be expended for information programs under this chapter;

(ii) Not less than ten percent and not more than fifty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty-five percent may be expended for maintenance of nonhighway roads;

(iv) Not more than fifty percent may be expended for nonhighway road recreation facilities;

(v) Ten percent shall be transferred to the interagency committee for outdoor recreation for grants to law enforcement agencies in those counties where the department of natural resources maintains ORV facilities. This amount is in addition to those distributions made by the interagency committee for outdoor recreation under (d)(i) of this subsection;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the maintenance and management of ORV use areas and facilities; and

(d) Fifty-four and one-half percent, together with the funds received by the interagency committee for outdoor recreation under RCW 46.09.110, shall be credited to the nonhighway and off-road vehicle activities program account to be administered by the committee for planning, acquisition, development, maintenance, and management of ORV recreation facilities and nonhighway road recreation facilities; ORV user education and information; and ORV law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than twenty percent may be expended for ORV education, information, and law enforcement programs under this chapter;

(ii) Not less than an amount equal to the funds received by the interagency committee for outdoor recreation under RCW 46.09.110 and not more than sixty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty percent may be expended for nonhighway road recreation facilities.

(2) On a yearly basis an agency may not, except as provided in RCW 46.09.110, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

[1995 c 166 § 9; 1994 c 264 § 36; 1990 c 42 § 115; 1988 c 36 § 25; 1986 c 206 § 8; 1979 c 158 § 130; 1977 ex.s. c 220 § 14; 1975 1st ex.s. c 34 § 1; 1974 ex.s. c 144 § 3; 1972 ex.s. c 153 § 15; 1971 ex.s. c 47 § 22.]

RCW 46.09.180 Regulation by local political subdivisions or state agencies.

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter.

[1977 ex.s. c 220 § 15; 1971 ex.s. c 47 § 23.]

RCW 46.09.190 General penalty -- Civil liability.

(1) Except as provided in RCW 46.09.120(2) and 46.09.130 as now or hereafter amended, violation of the provisions of this chapter is a traffic infraction for which a penalty of not less than twenty-five dollars may be imposed.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, or growing crops injured as the result of travel by the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage.

[1979 ex.s. c 136 § 42; 1977 ex.s. c 220 § 16; 1972 ex.s. c 153 § 16; 1971 ex.s. c 47 § 24.]

RCW 46.09.200 Enforcement.

The provisions of this chapter shall be enforced by all persons having the authority to enforce any of the laws of this state, including, without limitation, officers of the state patrol, county sheriffs and their deputies, all municipal law enforcement officers within their respective jurisdictions, state wildlife agents and deputy wildlife agents, state park rangers, state fisheries patrolmen, and those employees of the department of natural resources designated by the commissioner of public lands under RCW 43.30.310, 76.04.035, and 76.04.045.

[1986 c 100 § 52; 1971 ex.s. c 47 § 25.]

RCW 46.09.240 Administration and distribution of ORV moneys.

(1) After deducting administrative expenses and the expense of any programs conducted under this chapter, the interagency committee for outdoor recreation shall, at least once each year, distribute the funds it receives under RCW 46.09.110 and 46.09.170 to state agencies, counties, municipalities, federal agencies, nonprofit ORV organizations, and Indian tribes. Funds distributed under this section to nonprofit ORV organizations may be spent only on projects or activities that benefit ORV recreation on lands once publicly owned that come into private ownership in a federally approved land exchange completed between January 1, 1998, and January 1, 2005.

The committee shall adopt rules governing applications for funds administered by the agency under this chapter and shall determine the amount of money distributed to each applicant. Agencies receiving funds under this chapter for capital purposes shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(2) The interagency committee shall require each applicant for land acquisition or development funds under this section to conduct, before submitting the application, a public hearing in the nearest town of five hundred population or more, and publish notice of such hearing on the same day of each week for two consecutive weeks as follows:

(a) In the newspaper of general circulation published nearest the proposed project;

(b) In the newspaper having the largest circulation in the county or counties where the proposed project is located; and

(c) If the proposed project is located in a county with a population of less than forty thousand, the notice shall also be published in the newspaper having the largest circulation published in the nearest county that has a population of forty thousand or more.

(3) The notice shall state that the purpose of the hearing is to solicit comments regarding an application being prepared for submission to the interagency committee for outdoor recreation for acquisition or development funds under the off-road and nonhighway vehicle program. The applicant shall file notice of the hearing with the department of ecology at the main office in Olympia and shall comply with the State Environmental Policy Act, chapter 43.21C RCW. A written record and a magnetic tape recording of the hearing shall be included in the application.

[1998 c 144 § 1; 1991 c 363 § 122; 1986 c 206 § 9; 1977 ex.s. c 220 § 17.]

RCW 46.09.250 State-wide plan.

The interagency committee for outdoor recreation shall maintain a state-wide plan which shall be updated at least once every third biennium and shall be used by all participating agencies to

guide distribution and expenditure of funds under this chapter.

[1986 c 206 § 11; 1977 ex.s. c 220 § 18.]

RCW 46.09.280 Committee to advise on administration of chapter.

The interagency committee for outdoor recreation shall establish a committee of nonhighway road recreationists, including representatives of organized ORV groups, to provide advice regarding the administration of this chapter. Only representatives of organized ORV groups may be voting members of the committee with respect to expenditure of funds received under RCW 46.09.110.

[1986 c 206 § 13.]

RCW 46.09.900 Severability -- 1971 ex.s. c 47.

If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1971 amendatory act, or the application of the provision to other persons or circumstances is not affected.

[1971 ex.s. c 47 § 26.]

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